

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-090674
	:	TRIAL NO. C-07CRB-21193
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
BARBARA FELTNER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant, Barbara Feltner, appeals the judgment of the Hamilton County Municipal Court convicting her of criminal damaging, in violation of R.C. 2909.06.

In her first assignment of error, Feltner argues that her conviction was based upon insufficient evidence and was against the manifest weight of the evidence. We disagree.

At the bench trial in this case, the state presented evidence that Feltner had walked next to Darnell Wise's car and, without his consent, used a key to make a long scratch in the paint on the driver's side of the car. We hold that a rational trier of fact, viewing the evidence in a light most favorable to the state, could have found that the state had proved beyond a reasonable doubt that Feltner had committed the

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

offense of criminal damaging.<sup>2</sup> Therefore, the evidence was legally sufficient to support her conviction.

Although Feltner and a friend provided different versions of the events, the weight to be given the evidence and the credibility of the witnesses were primarily for the trier of fact to determine.<sup>3</sup> Moreover, our review of the record does not persuade us that the trier of fact clearly lost its way and created a manifest miscarriage of justice in finding Feltner guilty of the offense.<sup>4</sup> Accordingly, we overrule the first assignment of error.

In her second assignment of error, Feltner argues that trial counsel was ineffective because counsel (1) ignored her request to continue the trial so that another witness could be present, (2) failed to present evidence of her physical disability, and (3) proceeded to trial despite being ill. Because these claims are based on matters outside the record, we cannot consider them on direct appeal.<sup>5</sup> Accordingly, we overrule the second assignment of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**SUNDERMANN, P.J., HENDON and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on May 5, 2010

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>2</sup> *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus.

<sup>3</sup> See *State v. DeHass* (1967), 10 Ohio St.2d 230, 227 N.E.2d 212, paragraph one of the syllabus.

<sup>4</sup> *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

<sup>5</sup> *State v. Madrigal*, 87 Ohio St.3d 378, 390-391, 2000-Ohio-448, 721 N.E.2d 52.